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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Enfield, New Hampshire, Hartford and
White River Junction, Vermont and
Keeseville and Morrisonville, New York)

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MB Docket No. 04-____
RM - ____

To: The Commission

NASSAU BROADCASTING III, L.L.C.

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December 22, 2004

Its Counsel

No. of Copies rec'd 014
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Summary

Nassau Broadcasting III, L.L.C., licensee of WWOD(FM), Hartford, Vermont and WSSH(FM), White River Junction, Vermont, propose the following changes to Section 73.202(b) of the Commission's Rules: (1) allocate Channel 282A to Enfield, New Hampshire, as that community's first local service; (2) reallocate Channel 282C3 from Hartford, Vermont to Keeseville, New York, and modify the community of license of station WWOD(FM) to operate on Channel 282C3 at Keeseville; (3) reallocate Channel 237A from White River Junction, Vermont to Hartford, Vermont, and modify the community of license of station WSSH(FM) to operate on Channel 237A at Hartford; and (4) reallocate Channel 231A from Keeseville, New York to Morrisonville, New York as that community's first local service. These proposed changes serve the public interest because it will provide two new first local services to the communities of Enfield and Morrisonville as well as improved service for WSSH(FM) in Hartford, Vermont. Accordingly, the proposed changes serve the public interest because they represent a preferential arrangement of the allotment of FM Channels. The Commission should issue a Notice of Proposed Rule Making and adopt this rule making petition.

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Amendment of Section 73.202(b))	
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FM Broadcast Stations)	RM - ____
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White River Junction, Vermont and)	
Keeseville and Morrisonville, New York))	

To: The Commission

PETITION FOR RULE MAKING

Nassau Broadcasting III, L.L.C. ("Nassau"), licensee of WWOD(FM), Hartford, Vermont, and WSSH(FM), White River Junction, Vermont (together the "Stations"), pursuant to Sections 1.401 and 1.420(i) of the Commission's Rules and by its counsel, hereby submits this Petition for Rule Making ("Petition"). Nassau seeks to provide improved service to the public by changing the Stations' communities of license and/or upgrading their facilities.¹ As shown below, these allocations would constitute a preferential arrangement under the FM priorities and would result in improved service to the public commensurate with the public interest.²

Nassau respectfully requests that the Commission initiate a rule making proceeding to make the following changes to Section 73.202(b) of the Commission's Rules: (1) allocate Channel 282A to Enfield, New Hampshire, as that community's first local service; (2) reallocate Channel 282C3 from Hartford, Vermont to Keeseville, New York, and modify the community of license of station WWOD(FM) to operate on Channel 282C3 at Keeseville; (3) reallocate

¹ Section 1.420(i) provides that "(i) In the course of the rulemaking proceeding to amend §73.202(b) ... the Commission may modify the license ... of an FM ... broadcast station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's or permittee's present assignment."

² The FM allotment priorities are (1) First fulltime aural service; (2) Second fulltime aural service; (3) First local service; and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3). *See Revision of FM Assignment Policies and Procedures*, 99 FCC 2d 88 (1988) (the "FM Priorities").

Channel 237A from White River Junction, Vermont to Hartford, Vermont, and modify the community of license of station WSSH(FM) to operate on Channel 237A at Hartford; and (4) reallocate Channel 231A from Keeseville, New York to Morrisonville, New York as that community's first local service. As shown below, the proposed changes serve the public interest by providing the communities of Enfield and Morrisonville with a first local service, will allow WSSH(FM) to operate as a full power Class A facility, and will not result in the removal of the only local broadcast service from any community. Hence, the reallocation constitutes a preferential arrangement under the *FM Priorities* and improved service to the public. In support thereof, the following is hereby shown:

I. Technical Compliance

A. Enfield, New Hampshire

The Petition proposes the allotment of Channel 282A to Enfield, New Hampshire as that community's first local service.³ The community of Enfield is not located within the defined boundaries of any Urbanized Area and the proposed 70 dBu for the new allotment will not cover more than 50% of any Urbanized Area.⁴ The proposed allotment would provide the required city-grade coverage to the entire community of Enfield.⁵ As detailed in the attached Engineering Statement, the proposed allotment comports with the Commission's minimum-distance separation requirements as stated in Section 73.207(b) of the Commission's Rules, provided that Channel 282C3 is reallocated from Hartford, Vermont to Keeseville, New York.

³ The reference coordinates are 43-39-08 N and 72-08-15 W. See Engineering Statement of Robert M. Smith, attached as Exhibit 1 ("Engineering Statement").

⁴ Throughout this Petition, the term "Urbanized Area" refers to those Qualifying Urban areas specified in *Qualifying Urban Areas for Census 2000*, Federal Register Vol. 67, No. 84 (rel. May 1, 2002).

⁵ See Engineering Statement at 4.

B. Keeseville, New York

The Petition proposes to reallocate Channel 282C3 from Hartford, Vermont to Keeseville, New York, and modify the community of license of station WWOD(FM) to operate on Channel 282C3 at Keeseville. *These changes will require modification of the current WWOD(FM) authorization to change the community of license for the station from Hartford to Keeseville with a relocation of the transmitter site to new reference coordinates.*⁶ The community of Keeseville is not located within the defined boundaries of any Urbanized Area, but the proposed 70 dBu contour for WWOD(FM) will cover approximately 50% of the Burlington, Vermont Urbanized Area.

Petitioners seeking to change community of license pursuant to Section 1.420(i) must propose a channel that is mutually exclusive with the existing station's channel, and the new community must be preferred over the existing community pursuant to the Commission's FM allotment priorities.⁷ The proposed allotment comports with the Commission's minimum-distance separation requirements as stated in Section 73.207(b) of the Commission's rules. The proposed allotment of Channel 283C3 to Keeseville is mutually exclusive with the existing allotment of that channel at Hartford, and the Keeseville allotment would provide the requisite principal-community coverage to the entire community of Keeseville.⁸ The transmitter relocation associated with the allotments proposed herein will create no underserved areas.⁹

⁶ The reference coordinates are 44-31-31 N and 73-31-07 W. *See Id.* at 1.2

⁷ See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990).

⁸ *See* Engineering Statement at 3-4.

⁹ *See Id.* at 7-8.

C. Hartford, Vermont

The Petition proposes to reallocate Channel 237A from White River Junction, Vermont to Hartford, Vermont, and modify the community of license of station WSSH(FM) to operate on Channel 237A at Hartford.¹⁰ These changes will require modification of the current WSSH(FM) authorization to change the community of license for the station from White River Junction to Hartford. The community of Hartford is not located within the defined boundaries of any Urbanized Area and the proposed 70 dBu contour for WSSH(FM) will not cover more than 50% of any Urbanized Area. As such, this proposal is not considered relocation from a rural market to an Urbanized Area.

The proposed allotment comports with the Commission's minimum-distance separation requirements as stated in Section 73.207(b) of the Commission's rules. The proposed allotment of Channel 237A to Hartford is mutually exclusive with the existing allotment of that channel at White River Junction, and the Hartford allotment would provide the requisite principal-community coverage to the entire community of Hartford.¹¹ The proposed allotment of Channel 237A to Hartford will permit the station to operate as a full power Class A station instead of the presently grandfathered Class A facility.

¹⁰ The reference coordinates are 43-43-45 N and 72-22-22 W. *See Id.* at 3.

¹¹ *See Id.* at 4.

D. Morrisonville, New York

The Petition proposes the reallocation of Channel 231A from Keeseville, New York to Morrisonville, New York as that community's first local service.¹² Channel 231A is a vacant allotment at Keeseville. Accordingly, the proposed change in community of license of Channel 231A from Keeseville to Morrisonville does not implicate Section 1.420(i) of the Commission's Rules. The community of Morrisonville is not within the defined boundaries of any Urbanized Area and the proposed 70 dBu contour for Channel 231A at Morrisonville will not cover more than 50% of any Urbanized Area.¹³

E. White River Junction, Vermont

The community of White River Junction, Vermont will continue to receive a first local service from WNHV(AM). The Commission considers a daytime AM station to constitute first local service.¹⁴ Thus, the proposed reallocation of Channel 237A from White River Junction to Hartford, Vermont will not deprive White River Junction of its sole first local service.

II. The Proposed Changes Serve the Public Interest

The Petition proposes changes to Section 73.202(b) of the Commission's Rules to the communities of Enfield, New Hampshire, White River Junction and Hartford, Vermont and Keeseville and Morrisonville, New York that represent a preferential arrangement under the *FM*

¹² The reference coordinates are 44-40-19 N and 73-32-17 W. *See Id.* at 3.

¹³ On May 30, 2003, Dana J. Puopolo filed a petition for rule making to allocate Channel 231A to Morrisonville, New York. This rule making proposal is defective because it is mutually exclusive with the Commission's recent decision allocating Channel 231A to Keeseville. *See Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Keeseville, New York, Hartford and White River Junction, Vermont)*, Report and Order, MM Docket No. 02-23 (Aud. Div. 2004). This decision is now final and the Commission cannot grant the Puopolo petition.

¹⁴ *See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify A New Community of License*, 5 FCC Rcd 7094, 7097 (1990); *Saluda and Irma*, South Carolina, 19 FCC Rcd 1078 (Aud. Div. 2004).

Priorities and therefore serve the public interest. The proposed allocations of Channel 282A to Enfield and Channel 231A to Morrisonville serve the public interest by creating two first local services. In addition, the reallocation of Channel 237A from White River Junction, Vermont to Hartford, Vermont will eliminate a grandfathered short-spaced allotment and allow WSSH(FM) to operate as a full Class A station, thereby providing improved service to the public. In accordance with the *FM Priorities*, the proposed allocations represent an enhanced allotment priority over retention of channels in the present communities because the allocations will result in the introduction of two new first local services and improved wide area service. First local service constitutes priority (3) under the *FM Priorities*, while retention of the existing allotments at White River Junction and Hartford represent at best priority (4).

III. Communities of License

As described below, the communities described herein – Enfield, Keeseville, Morrisonville, and Hartford – all constitute “communities” for allotment purposes in accordance with Commission precedent. To qualify as a community for allotment purposes, the Commission has stated that a locality must have “social, economic, cultural or governmental indicia” that identify that locality as a community.¹⁵ Petitioners may satisfy the showing of community status by demonstrating that the locality “is commonly regarded as a distinct group,” which may be shown “by objective indications of the existence of a common perception that a locality’s populace constitutes a distinct geographical population.”¹⁶ The Commission has held that objective indications of community status include the existence of political, commercial, social and religious organizations and services in the community where the residents function as

¹⁵ See *Avon, North Carolina*, 14 FCC Rcd 3939, 3940 (1999).

¹⁶ See Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments, 5 FCC Rcd 934 (1990).

and conceive of themselves as residents of a community. Enfield, Keeseville, Morrisonville and Hartford have sufficient objective indicia of community status, which are described in more detail below.

Moreover, while the proposed allotment to Keeseville would place a city-grade signal over approximately 50% of the Burlington, Vermont Urbanized Area, Keeseville is sufficiently independent of that Urbanized Area that Keeseville is entitled to consideration as a first local service based on the Commission's well-established *Tuck* factors and the *Huntington*-related precedent.¹⁷

A. Enfield, New Hampshire

As noted above, Nassau requests allocation of Channel 282A as a first local service to the community of Enfield, New Hampshire. Enfield possesses characteristics demonstrative of a community, as shown in Exhibit 2. The Enfield community has a population of 4,618 persons, and is listed in the 2000 Census. The town was chartered in 1761 and a Shaker community was established on the western bank of Lake Mascoma in 1793. The town's Shaker Museum in the historic district preserves Shaker history for Enfield residents and visitors.

Enfield has its own zip code (03748) and its own post office, both of which are indicative of an established community. Enfield has its own public school (Enfield Village School [K-4]), and religious organizations. An elected three-person Board of Selectmen and a town manager govern the town. The town provides vital town services through a public works department,

¹⁷ See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (Allocations Branch, 1995) (adopting requirement that stations seeking to move from rural communities to communities near Urbanized Areas must provide a *Tuck* showing if the allotment would place a 70 dBu signal over 50 percent on more of the Urbanized Area); *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988) (delineating eight-factor analysis for determining a proposed community's independence from a nearby Urbanized Area); *Huntington Broadcasting Co.* 192 F.2d 33 (D.C. Cir. 1951).

water/sewer department, planning board, zoning board and other town boards and commissions. Enfield also has its own police department, volunteer fire department and ambulance service.

Numerous restaurants and companies are located in Enfield, including Janet's Roadside Café, Ramunito's Sicilian Pizza, Poverty Lane Farm Antiques, Lily of the Valley, Gemstar Gemstone Co., Petmart and Fanfare Presentations. Enfield also has its own bank branch called Mascoma Savings Bank. Several Enfield businesses identify themselves as being part of the Enfield community, including the Enfield Garage, Enfield Hairport, Enfield Hardware, Enfield House of Pizza, Enfield Massage Therapy, Enfield Plumbing and Heating, and Enfield Self Storage. In light of these objective indicia of community status, Enfield qualifies as a community for allotment of Channel 282A as that community's first local service. Furthermore, as noted *supra*, the community of Enfield is not located within the defined boundaries of any Urbanized Area and the proposed 70 dBu signal for the new allotment will not cover more than 50% of any Urbanized Area; accordingly, no *Tuck* analysis is required.

B. Keeseville, New York

The Commission recently allotted channel 231A to Keeseville, New York,¹⁸ and indeed, Keeseville has the requisite indicia of community for allotment purposes, as detailed in Exhibit 3. Keeseville is located near Lake Champlain in the Adirondack mountains, and the lake separates Keeseville from Burlington, Vermont. Keeseville is listed in the U.S. Census with a population of 1,850 persons. The Ausable River runs through Keeseville, marking a boundary between Clinton and Essex counties, and Keeseville is located in both counties. Keeseville has a

¹⁸ See Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Keeseville, New York, Hartford and White River Junction, Vermont) (Aud. Div. 2004). Implicit in the allocation was the Commission's conclusion that Keeseville has the requisite indicia of a community.

local government, zip code and post office. Keeseville has several churches, synagogues and religious organizations.¹⁹ Keeseville Elementary School and Ausable Valley Middle School are located in Keeseville. These factors clearly indicate that Keeseville possesses the requisite indicia of community status to be entitled to a first local service.

i. Application of Eight-Factor Tuck Analysis

Nassau's engineering analysis concludes that the proposed allotment to Keeseville would produce a 70 dBu signal over approximately 50% of the Burlington, Vermont Urbanized Area.²⁰ Accordingly, out of an abundance of caution, this Petition supplies an analysis using the factors delineated in *Faye and Richard Tuck* as required by Commission precedent.²¹ In prior decisions, the Commission has affirmed that where the *Huntington* doctrine applies, the paramount consideration in determining whether a community is entitled to a preference as a first local service is the proposed community's independence from the nearby central city.²² The Commission considers eight indicia of community status (the "Tuck" factors) in assessing a community's independence from the central city: 1) the extent to which the community's residents work in the larger metropolitan area, rather than in the specified community; 2) whether the community has its own newspaper or other media that cover the community's local needs and interests; 3) whether community leaders and residents perceive the specified

¹⁹ *Id.*

²⁰ Nassau notes that the Commission previously indicated that a prior proposal to allocate this channel to Keeseville at the same reference coordinates produced a 70 dBu contour that covered only about 25% of the Burlington Urbanized Area. See *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Keeseville, New York, Hartford and White River Junction, Vermont)*, Notice of Proposed Rule Making, 17 FCC Rcd 2232 (rel. August 22, 2002). Nassau's own engineering analysis concludes that the coverage is approximately 50%; therefore, out of an abundance of caution, a *Tuck* analysis is provided herein.

²¹ See *Faye and Richard Tuck, Inc.*, 3 FCC Rcd 5374 (1988) (detailing eight factors relating to a proposed community's independence from a nearby Urbanized Area.).

²² See, e.g., *Pitkin, Lake Charles, et al.*, 15 FCC Rcd 17311 at ¶ 9 (Allocations Branch, 2000). The Commission also considers two additional criteria, which are discussed in more detail *infra*: the relative size and

community as an integral part of, or separate from, the larger community; 4) whether the specified community has a local government and elected officials; 5) whether the specified community has its own local telephone book provided by the local telephone company or zip code; 6) whether the community has its own commercial establishments, health facilities and transportation systems; 7) the extent to which the specified community and the central city are part of the same advertising market; and 8) the extent to which the specified community relies upon the larger metropolitan area for various municipal services, such as police, fire protection, schools and libraries.²³ Proponents must demonstrate that a majority of these factors support a proposed community's independence.²⁴ This is the case with the instant Petition, which demonstrates Keeseville's independence from Burlington and entitlement to a first local service.

a. Keeseville Offers Residents Significant Employment Opportunities (Factor 1); and Local Business and Health Facilities (Factors 1 and 6)

As listed in Exhibit 3, Keeseville is home to local businesses such as Little Italy Pizzeria, Mac's Ice Cream Parlor and Diner, North Country Club Restaurant, McLean's Family Restaurant, Pleasant Corner Restaurant, Keeseville Auto Parts, Evergreen Bank, Keeseville Bowling Center and Keeseville Pharmacy. These businesses provide local employment opportunities for Keeseville residents who work in the village. In addition, doctors, dentists and health-care facilities are located in Keeseville and provide health-care services to Keeseville residents.

proximity of the suburban community to the Urbanized Area and the signal coverage to be provided to the Urbanized Area.

²³ See, e.g., Faye and Richard Tuck at ¶ 36.

²⁴ See *Parker and Port St. Joe, Florida*, 11 FCC Rcd 1095 (Allocations Branch, 1996).

b. Keeseville Residents and Government Leaders Clearly Consider Keeseville To Be Separate from Surrounding Communities (Factor 3)

Several factors demonstrate the perception held by Keeseville residents and government leaders that their community is separate from Burlington. Among other things, Keeseville has developed a unique historical identity that differs from Burlington. Keeseville was incorporated in 1878 to provide water and fire services to a developing industrial community along the Ausable River, and early industry centered on the iron ore and forestry that supported Keeseville commerce. Keeseville's Historic District appears in the National Register of Historic Places, as do other Keeseville buildings, bridges and landmarks such as the Swing Bridge and the Stone Arch Bridge. Furthermore, some local businesses demonstrate their connection to the village by including the village's name in their business name. For example, Keeseville is home to Keeseville Auto Parts, Keeseville Bowling Center and Keeseville Pharmacy, among others. These factors show that Keeseville recognizes itself as a distinct community from Burlington, Vermont.

c. Keeseville Has a Zip Code (Factor 5)

Keeseville is located in Essex and Clinton County, New York. Its post office is located at 100 Kent Street in Keeseville, and Keeseville has zip code 12944.

d. Several Local Newspapers and Other Media Serve Keeseville Residents; Businesses Need Not Rely on Burlington-based Media to Reach Keeseville Residents (Factors 2 and 7)

Newspapers published in nearby communities serve Keeseville residents, but businesses may advertise to Keeseville residents without relying on Burlington-based media outlets. The *Press Republican* is published in nearby Plattsburgh, New York to serve Clinton, Essex and Franklin counties and covers stories of interest to Keeseville residents. The *Valley News* also serves Keeseville residents, among others. These media serve the local needs and interests of Keeseville residents.

e. Keeseville Has A Local Government and Elected Officials (Factor 4)

Keeseville's elected officials include a mayor and a four-member Board of Trustees, and Keeseville's village clerk is responsible for matters of local administration. Keeseville's local government includes, among other things, a local court and a village justice. Keeseville also has a volunteer fire department that provides ambulance and emergency service. Keeseville does not rely upon Burlington to provide these services to Keeseville residents.

ii. Additional Considerations for First Local Service

As required, Keeseville satisfies the majority of the Commission's *Tuck* criteria, and thus is entitled to a preference as a first local service. The Commission's analysis of two additional *Huntington* considerations further supports this conclusion. First, the Commission considers the

extent to which the station will provide service to the entire nearby Urbanized Area. The Commission also considers the relative populations of the suburban and central city.

As described supra, the Petitioners' engineering analysis indicates that the proposed Keeseville allotment would provide 70 dBu service to approximately 50% of the Burlington Urbanized Area. However, with regard to relative size and proximity, Keeseville's 2000 population of 1,850 constitutes approximately 1.75 % of the 2000 population of the Burlington, Vermont Urbanized Area (105,365). This percentage exceeds percentages approved by the Commission in other proceedings.²⁵ Keeseville and Burlington are located in different states. Moreover, the two communities are separated by more than twelve miles and are located on opposite sides of Lake Champlain.

Keeseville's independence from Burlington stems from many economic, geographic and historic factors that strongly support Keeseville's qualifications for an FM allotment that would constitute a first local aural transmission service for the community. Accordingly, Nassau reaffirms its position in the Petition and respectfully submits that Keeseville is entitled to a preference as a first local service.

C. Hartford, Vermont

Nassau seeks to reallocate Channel 237A from White River Junction, Vermont to Hartford, Vermont and to modify the community of license of station WSSH(FM) to operate on Channel 237A at Hartford as a full power station. As shown in Exhibit 4, Hartford exhibits numerous objective indicia of community status for allotment purposes.²⁶ First, Hartford's community status clearly is evidenced by the Commission's current allocation of channel 282C3

²⁵ See, e.g., Ada, Newcastle and Watonga, Oklahoma, 22 FCC Rcd 16896 (1996) (0.9 percent).

²⁶ See Exhibit 4.

to that community. Second, Hartford is listed in the 2000 Census with a population of 10,367 persons. In addition, the town of Hartford's website (www.hartford-vt.org) indicates that the Hartford town government, including a Town Clerk and Board of Selectmen, oversees the provision of many municipal services to Hartford residents, including law enforcement, planning, housing and other services. Hartford students attend Hartford Memorial Middle School and Hartford High School in nearby White River Junction. Hartford has its own post office and zip code (05047). These objective indicia of community status clearly demonstrate that Hartford, Vermont constitutes a community for the allotment proposed in the instant Petition.

D. Morrisonville, New York

Nassau requests allocation of Channel 231A from Keeseville, New York to Morrisonville, New York as a first local service to the community of Morrisonville. As demonstrated in Exhibit 5, Morrisonville possesses the requisite objective characteristics demonstrative of a community for allotment purposes. Morrisonville is listed as a Census-designated place in the 2000 Census with a population of 1,702 persons. Morrisonville has its own zip code (12962) and two post offices, both of which are indicative of an established community. Morrisonville has a local church (Morrisonville Community Church) and an elementary school (Morrisonville Elementary School, in the Saranac Central School District), and local businesses listings include Giarro Family Restaurant, Ronnie's Michigan Stand, Morrisonville Construction and Morrisonville Septic Tank Service. Given these indicia of community status, Morrisonville qualifies as a community for allotment purposes under Commission precedent. In addition, as previously noted, no *Tuck* analysis is required for

Morrisonville because the proposed change in community of license will not result in placement of a 70 dBu signal over 50% or more of any Urbanized Area.

CONCLUSION

Nassau hereby states that in the event that the Commission makes the proposed changes to the FM Table of Allotments for WWOD(FM) and WSSH(FM), Nassau will timely file the necessary applications for construction permit for and will construct the new facilities in a timely manner. Nassau further states that when the Commission conducts a proceeding to award a construction permit for Channel 282A in Enfield, New Hampshire and Channel 231A in Morrisonville, New York, it will file the necessary forms and applications to participate in any auction, and if Nassau is successful in the auction, will timely file the necessary applications for a construction permit for the new stations and will construct the new facilities in a timely manner.

The Petition proposes the following Changes to the FM Table of Allotments:

<u>Community</u>	<u>Current</u>	<u>Channel No.</u> <u>Proposed</u>
Enfield, New Hampshire	-----	282A
Hartford, Vermont	282C3	237A
Keeseville, New York	231A	282C3
Morrisonville, New York	----	231A
White River Junction, Vermont	237A	----- ²⁷

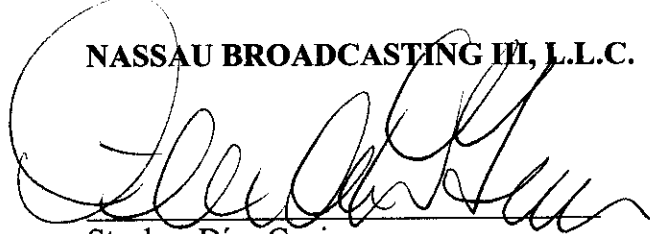
This proposal will serve the public interest by providing the communities of Enfield and Morrisonville with their own first local service and Hartford, Vermont with improved wide area service. For these reasons, Nassau respectfully requests that the Commission initiate and approve this rule making proceeding to modify the FM Table of Allotments as proposed herein to provide improved service to the local communities involved, which will result in a greater benefit to the public.

²⁷ White River Junction will continue to receive first local service from WNHV(AM).

WHEREFORE, in light of the foregoing, Nassau Broadcasting III, L.L.C. respectfully requests that the Commission issue a Notice of Proposed Rule Making in connection with the proposal outlined in this Petition for Rule Making and modify Section 73.202(b) accordingly.

Respectfully submitted,

NASSAU BROADCASTING III, L.L.C.

A handwritten signature in black ink, appearing to read "Stephen Díaz Gavin", is written over a horizontal line.

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ENGINEERING STATEMENT

IN SUPPORT OF
PETITION FOR RULE MAKING

BY:

NASSAU BROADCASTING III, LLC

December 2004

PURPOSE AND SCOPE

The Petition, of which this Statement is a part, requests a modification of the F.C.C. FM Table of Allotments in 47 CFR §73.202 as follows:

1. Delete the allotment of channel 282C3 at Hartford, VT
2. Delete the allotment of channel 237A at White River Junction, VT
3. Delete the allotment of channel 231A at Keeseville, NY
4. Add an allotment of channel 237A at Hartford, VT
5. Add an allotment of channel 231A at Morrisonville, NY
6. Add an allotment of channel 282C3 at Keeseville, NY
7. Add an allotment of channel 282A at Enfield, NH.

The results of these changes are:

1. WWOD(FM)'s (FCC Facility ID 20606) principal community changes from Hartford, VT (on channel 282C3) to Keeseville, NY (on channel 282C3) as Keeseville's only local service
2. WSSH(FM)'s (FCC Facility ID 17801) principal community changes from White River Junction, VT to Hartford, VT (both on 237A) as Hartford's only local service
3. Morrisonville NY receives its first local service on channel 231A
4. Enfield, NH receives its first local service on channel 282A.

This Statement supports the Petition by showing that the new allotments comply with applicable spacing requirements, provide 70 dBu coverage to the principal communities of the new allotments, provide 60 dBu coverage to more population than is provided by the present allotment scheme and that the proposed allotments are mutually exclusive with the present allotments.

ALLOTMENT SPACING

CHANNEL 282C3 AT KEESEVILLE, NY

A computerized search of the F.C.C.'s CDBS FM database shows that an allotment site specified at N44-31-31, W73-31-07 is fully spaced per the requirements of 47 CFR §73.207(b)(1) to all domestic stations/allotments. The site is short spaced to the following Canadian stations/allotments:

Allocation	281B	St. Jean, QU
CBF-13	282C1	Trois-Rivieres, QU

CBF-1	282B	Drummondville, QU
CFLG-FM	283B	Cornwall, ON

Limiting the ERP and HAAT of the proposed allotment to the values specified in Table 1 fully protects these facilities as required by the U.S./Canadian Working Agreement.

CHANNEL 237A AT HARTFORD, VT

A computerized search of the F.C.C.'s CDBS FM database shows that an allotment site specified at N43-43-45, W72-22-22 is fully spaced per the requirements of 47 CFR §73.207(b)(1) to all domestic stations/allotments. The site is also fully spaced per the requirements of 47 CFR §73.207(b)(2) to all Canadian stations/allotments.

CHANNEL 231A AT MORRISONVILLE, NY

A computerized search of the F.C.C.'s CDBS FM database shows that an allotment site specified at N44-40-19, W73-32-17 is fully spaced per the requirements of 47 CFR §73.207(b)(1) to all domestic stations/allotments. The site is also fully spaced per the requirements of 47 CFR §73.207(b)(2) to all Canadian stations/allotments except CKMF-FM, 232C1, Montreal, QU. Limiting the ERP and HAAT of the proposed allotment to the values specified in Table 2 fully protects CKMF-FM as required by the U.S./Canadian Working Agreement.

CHANNEL 282A AT ENFIELD, NH

A computerized search of the F.C.C.'s CDBS FM database shows that an allotment site specified at N43-39-08, W72-08-15 is fully spaced per the requirements of 47 CFR §73.207(b)(1) to all domestic stations/allotments. The site is also fully spaced per the requirements of 47 CFR §73.207(b)(2) to all Canadian stations/allotments.

PRINCIPAL COMMUNITY COVERAGE

Plotted on Figure 1 is the outline of the corporate boundary of Keeseville, NY, and a portion of the 70 dBu F(50,50) contour generated by full Class C3 facility at the proposed Keeseville allotment site (limited as necessary to protect Canadian facilities). As shown, the

principal community lies completely within the proposed 70 dBu contour. Also, as shown, the 70 dBu encompasses the city and much of the surrounding Urbanized Area of Burlington, VT.

Plotted on Figure 2 is the outline of the boundary of the town of Hartford, VT, and a portion of the 70 dBu F(50,50) contour generated by full Class A facility at the Hartford allotment site. As shown, the principal community lies completely within the proposed 70 dBu contour.

Plotted on Figure 3 is the outline of the boundary of the town of Morrisonville, NY, and a portion of the 70 dBu F(50,50) contour generated by full Class A facility at the Morrisonville allotment site. As shown, the principal community lies completely within the proposed 70 dBu contour.

Plotted on Figure 4 is the outline of the boundary of the town of Enfield, NH and a portion of the 70 dBu F(50,50) contour generated by full Class A facility at the Enfield allotment site. As shown, the principal community lies completely within the proposed 70 dBu contour.

PRESENT VERSUS PROPOSED SERVICE

WWOD(FM) – HARTFORD, VT TO KEESEVILLE, NY

The present WWOD(FM) facility's 60 dBu contour encompasses an area of 3,364 square kilometers and 107,897 persons. The 60 dBu contour from the proposed operation of Channel 282C3 in Keeseville, NY (as limited to protect Canadian facilities) encompasses 3104 square kilometers and 203,956 persons. Replacement of 282C3 at Hartford with 282C3 at Keeseville results in an increase of 96,058 persons receiving 60 dBu service from WWOD(FM).

ALLOTMENT 231A – KEESEVILLE, NY TO MORRISONVILLE, NY

The 60 dBu contour from a full Class A facility on channel 231A at the present Keeseville allotment site (N44-30-38, W73-32-18) encompasses 2923 square kilometers and a population of 194,914 persons. The 60 dBu contour from a full Class A facility, limited to protect CKMF-FM, encompasses 2512 square kilometers and a population of 170,365 persons. Moving the allotment for channel 231A from Keeseville to Morrisonville results in a loss of 24,549 persons receiving 60 dBu service.

WSSH(FM) – WHITE RIVER JUNCTION, VT TO HARTFORD, VT

The present WSSH(FM) facility's 60 dBu contour encompasses an area of 1,616 square kilometers and 66,252 persons. The 60 dBu contour from the proposed operation of Channel 237A in Hartford, VT encompasses 2416 square kilometers and 74,702 persons. Replacement of 237A at White River Junction, VT with 237A at Hartford, VT results in an increase of 8,450 persons receiving 60 dBu service from WSSH(FM).

ALLOTMENT 282A – NEW AT ENFIELD, NH

The 60 dBu contour from a full Class A facility on channel 282A at the proposed allotment site for Enfield, NH encompasses 2,655 square kilometers and a population of 75,931 persons.

POPULATION SUMMARY

<u>ALLOTMENT</u>	<u>PRESENT</u>	<u>PROPOSED</u>	<u>CHANGE</u>
282C3	107,897	203,956	+96,059
231A	194,914	170,365	-24,549
237A	66,252	74,702	+8,450
282A	<u>0</u>	<u>75,931</u>	<u>+75,931</u>
TOTALS	369,063	524,954	+155,891

A modification of the Table of Allotments, as proposed in this Petition will result in an increase of 155,891 persons (42.2% increase) receiving 60 dBu service from the combined operation of the proposed allotments.

The operation of WWOD(FM) on 282C3 at Keeseville, NY will replace the first local aural service to that community. Keeseville will lose a vacant allotment and gain an operating facility.

WSSH(FM)'s proposed operation will replace the first local service to Hartford, VT. White River Junction, VT will retain a first local service in WNHV(AM).

The allotment of 231A to Morrisonville, NY will provide that community with its first local service.

The allotment of 282A to Enfield, NH will provide that community with its first local service.